

---

STATUTORY INSTRUMENTS

---

**2005 No. 672**

**PENSIONS**

**The Pension Protection Fund (Valuation) Regulations 2005**

*Made* - - - - *11th March 2005*  
*Laid before Parliament* *16th March 2005*  
*Coming into force* - - *6th April 2005*

The Secretary of State for Work and Pensions, in exercise of the powers conferred upon him by sections 143(3) to (5) and (11)(a), 145(4), 179(1)(a), (2) and (3), 190(1), 315(2), (4) and (5), and 318(1) and (4)(a) of the Pensions Act 2004 <sup>M1</sup>, and of all other powers enabling him in that behalf, by this instrument, which contains regulations made before the end of the period of six months beginning with the coming into force of the provisions of the Pensions Act 2004 by virtue of which they are made <sup>M2</sup>, hereby makes the following Regulations:

**Marginal Citations**

- M1** 2004 c. 35. The Pensions Act 2004 is modified in its application to partially guaranteed schemes by the [Pension Protection Fund \(Partially Guaranteed Schemes\) Regulations 2005 \(S.I. 2005/277\)](#), in its application to hybrid schemes by the [Pension Protection Fund \(Hybrid Schemes\) \(Modification\) Regulations 2005 \(S.I. 2005/449\)](#), and in its application to multi-employer schemes by the [Pension Protection Fund \(Multi-employer Schemes\) \(Modification\) Regulations 2005 \(S.I. 2005/441\)](#). Section 318(1) is cited because of the meaning there given to “modifications”, “prescribed” and “regulations”..
- M2** See section 317 of the Pensions Act 2004, which provides that the Secretary of State must consult such persons as he considers appropriate before making regulations by virtue of the provisions of that Act (other than Part 8). This duty does not apply where regulations are made before the end of six months beginning with the coming into force of the provisions of that Act by virtue of which the regulations are made.

**Commencement, citation and interpretation**

1.—(1) These Regulations may be cited as the Pension Protection Fund (Valuation) Regulations 2005 and shall come into force on 6th April 2005.

(2) In these Regulations—

“the Act” means the Pensions Act 2004;

“appropriate person” in the case of a section 143 valuation, means the person specified in section 143(11)(a)(ii) of the Act<sup>F1</sup>, in the case of a section 143 determination, means the Board]

---

*Status: Point in time view as at 30/04/2013.*

*Changes to legislation: There are currently no known outstanding effects for the The Pension Protection Fund (Valuation) Regulations 2005. (See end of Document for details)*

---

and, in the case of a section 179 valuation means the actuary as defined in section 179(2) of the Act;

[<sup>F2</sup>“the assessment date” means the date on which the assessment period in relation to the scheme or section, or (where there has been more than one such assessment period) the last one, began;]

“commencement date” means the 6th April 2005;

“contribution notice” means a notice issued under section 38 (contribution notices where avoidance of employer debt), 47 (contribution notices where non-compliance with financial support direction) or 55 (contribution notice where failure to comply with restoration order) of the Act;

“eligible scheme” has the meaning given by section 126 (eligible schemes) of the Act;

[<sup>F3</sup>“employer”, in relation to—

- (a) an occupational pension scheme which is not a multi-employer scheme; or
- (b) a single-employer section of a segregated scheme,

which has no active members, includes the person who was the employer of persons in the description of employment to which the scheme or section relates immediately before the time at which the scheme or section ceased to have any active members in relation to it;]

[<sup>F4</sup>“employer”, in relation to a non-segregated scheme or a multi-employer section of a segregated scheme—

- (a) in an assessment period, includes any person who before the assessment date has ceased to be the employer of persons in the description of employment to which the scheme or section relates unless condition A, B, C or D is satisfied where—
  - (i) condition A is that a section 75 debt became due from that employer and the full amount of the debt has been paid before the assessment date;
  - (ii) condition B is that—
    - (aa) such a debt became due;
    - (bb) a legally enforceable agreement has been entered into the effect of which is to reduce the amount which may be recovered in respect of the debt; and
    - (cc) the reduced amount has been paid in full before the assessment date;
  - (iii) condition C is that such a debt became due but before the assessment date it is excluded from the value of the assets of the scheme or section because it is unlikely to be recovered without disproportionate costs or within a reasonable time;
  - (iv) condition D is that at the time at which any such person ceased to be the employer of persons in the description of employment to which the scheme or section relates the value of the assets of the scheme or section was such that no such debt was treated as becoming due;
- (b) in any other case, includes any person who has ceased to be the employer of persons in the description of employment to which the scheme or section relates unless condition A, B, C or D is satisfied where—
  - (i) condition A is that a section 75 debt became due from that employer and the full amount of the debt has been paid;
  - (ii) condition B is that—
    - (aa) such a debt became due;
    - (bb) a legally enforceable agreement has been entered into the effect of which is to reduce the amount which may be recovered in respect of the debt; and

- (cc) the reduced amount has been paid in full;
- (iii) condition C is that such a debt became due but it is excluded from the value of the assets of the scheme or section because it is unlikely to be recovered without disproportionate costs or within a reasonable time;
- (iv) condition D is that at the time at which any such person ceased to be the employer of persons in the description of employment to which the scheme or section relates the value of the assets of the scheme or section was such that no such debt was treated as becoming due;]

“employment” means trade, business, profession, office or vocation;

“external liabilities” means any liabilities which do not fall due to the members of the scheme;

“financial support direction” means a direction issued under section 43 (financial support directions) of the Act;

[<sup>F5</sup>“non-segregated scheme” means a multi-employer scheme which is not a segregated scheme;]

“pension credit rights” has the meaning given by section 124(1) (interpretation of part I) of the Pensions Act 1995<sup>M3</sup>;

[<sup>F6</sup>“pre-6th April 1997 contract of insurance” means a contract of insurance that—

- (i) falls within the definition of a relevant contract of insurance in section 161(8) of the Act;
- (ii) was taken out before 6th April 1997; and
- (iii) the trustees or managers are, or should reasonably be, aware of;]

“registrable scheme” has the meaning given by section 59(2) (register of occupational and personal pension schemes) of the Act;

[<sup>F7</sup>“relevant accounts” means—

- (a) audited accounts for the scheme which are prepared in respect of a period ending with the relevant time;
- (b) if none are so prepared, the latest such accounts which are available at the relevant time; or
- (c) if the appropriate person's opinion is that it is practicable to use them, the latest such accounts which are available on the date the appropriate person signs the section 143 or section 179 valuation;]

[<sup>F7</sup>“relevant accounts” for the purposes of identifying and valuing the assets of a scheme, means audited accounts for the scheme which—

- (a) contain the information specified in the Schedule;
- (b) show a [<sup>F8</sup>true and fair view] of —
  - (i) the financial transactions of the scheme during the period to which the accounts relate (“the accounting period”);
  - (ii) the amount and disposition of the assets at the end of the accounting period; and
  - (iii) the liabilities of the scheme, other than the liabilities to pay pensions and benefits, after the end of the accounting period;
- (c) include a report by the auditor in writing as to whether or not in his opinion the requirements of paragraphs (a) and (b) above are satisfied; and
- (d) are prepared in respect of a period ending with the relevant time of the valuation;]

*Status: Point in time view as at 30/04/2013.*

*Changes to legislation: There are currently no known outstanding effects for the The Pension Protection Fund (Valuation) Regulations 2005. (See end of Document for details)*

“relevant time” for the purposes of section 179 of the Act, means the date in relation to which the assets and liabilities of the eligible scheme are calculated.

“restoration order” has the meaning given by section 52 of the Act (restoration orders where transactions at an undervalue);

“restricted information” has the meaning given in section 197 of the Act (restricted information);

[<sup>F9</sup>“section 143 determination” means a determination by the Board under section 143(2)(a) of the Act;]

[<sup>F10</sup>“section 143 valuation” means an actuarial valuation under that section of the Act;]

[<sup>F11</sup>“section 152 determination” means a determination by the Board for the purposes of section 152(2B) of the Act;

[<sup>F12</sup>“section 152(9) valuation” means a valuation obtained under section 152(9) of the Act;]

“section 152(10A) valuation” means a valuation under section 152(10A) of the Act;

“section 158 determination” means a determination by the Board under section 158(3)(a) of the Act;]

[<sup>F13</sup>“section 158 valuation” means a valuation obtained under section 158(3)(b) of the Act;]

[<sup>F10</sup>“section 179 valuation” means an actuarial valuation under that section of the Act;

“section 75 debt” means so much of the amount treated by section 75<sup>M4</sup> of the Pensions Act 1995 (deficiencies in the assets) as a debt due from the employer to the trustees or managers at the applicable time.

[<sup>F14</sup>“segregated scheme” means a multi-employer scheme which is divided into two or more sections where—

- (a) any contributions payable to the scheme by an employer in relation to the scheme or by a member are allocated to that employer’s or that member’s section; and
- (b) a specified proportion of the assets of the scheme is attributable to each section of the scheme and cannot be used for the purposes of any other section;]]

<b>F1</b>	Words in reg. 1(2) inserted (24.1.2013) by <i>The Pension Protection Fund (Miscellaneous Amendments) (No. 2) Regulations 2012 (S.I. 2012/3083)</i> , regs. 1(2)(b), <b>5(2)(a)</b> (with reg. 9(1)(e)(2), 10)
<b>F2</b>	Words in reg. 1(2) inserted (19.8.2005) by <i>Occupational Pension Schemes (Miscellaneous Amendments) Regulations 2005 (S.I. 2005/2113)</i> , regs. 1(1), <b>4(1)(2)(f)</b>
<b>F3</b>	Words in reg. 1(2) substituted (19.8.2005) by <i>Occupational Pension Schemes (Miscellaneous Amendments) Regulations 2005 (S.I. 2005/2113)</i> , regs. 1(1), <b>5(1)(2)(c)</b>
<b>F4</b>	Words in reg. 1(2) substituted (19.8.2005) by <i>Occupational Pension Schemes (Miscellaneous Amendments) Regulations 2005 (S.I. 2005/2113)</i> , regs. 1(1), <b>6(5)</b>
<b>F5</b>	Words in reg. 1(2) inserted (19.8.2005) by <i>Occupational Pension Schemes (Miscellaneous Amendments) Regulations 2005 (S.I. 2005/2113)</i> , regs. 1(1), <b>7(1)(2)(d)</b>
<b>F6</b>	Words in reg. 1(2) inserted (6.4.2007) by <i>The Pension Protection Fund (Miscellaneous Amendments) Regulations 2007 (S.I. 2007/782)</i> , regs. 1(1), <b>4(2)(a)</b>
<b>F7</b>	Words in reg. 1(2) substituted (6.4.2007) by <i>The Pension Protection Fund (Miscellaneous Amendments) Regulations 2007 (S.I. 2007/782)</i> , regs. 1(1), <b>4(2)(b)</b> (with reg. 6)
<b>F8</b>	Words in reg. 1(2) substituted (1.4.2009) by <i>The Pension Protection Fund (Miscellaneous Amendments) Regulations 2009 (S.I. 2009/451)</i> , regs. 1, <b>4(2)</b>
<b>F9</b>	Words in reg. 1(2) inserted (24.1.2013) by <i>The Pension Protection Fund (Miscellaneous Amendments) (No. 2) Regulations 2012 (S.I. 2012/3083)</i> , regs. 1(2)(b), <b>5(2)(b)</b> (with reg. 9(1)(e)(2), 10)

- F10** Words in reg. 1(2) substituted (24.1.2013) by [The Pension Protection Fund \(Miscellaneous Amendments\) \(No. 2\) Regulations 2012 \(S.I. 2012/3083\)](#), regs. 1(2)(b), **5(2)(c)** (with reg. 9(1)(e)(2), 10)
- F11** Words in reg. 1(2) insert (24.1.2013) by [The Pension Protection Fund \(Miscellaneous Amendments\) \(No. 2\) Regulations 2012 \(S.I. 2012/3083\)](#), regs. 1(2)(b), **5(2)(d)** (with reg. 9(1)(e)(2), 10)
- F12** Words in reg. 1(2) inserted (30.4.2013) by [The Pension Protection Fund, Occupational and Personal Pension Schemes \(Miscellaneous Amendments\) Regulations 2013 \(S.I. 2013/627\)](#), regs. 1(1), **4(2)(a)**
- F13** Words in reg. 1(2) inserted (30.4.2013) by [The Pension Protection Fund, Occupational and Personal Pension Schemes \(Miscellaneous Amendments\) Regulations 2013 \(S.I. 2013/627\)](#), regs. 1(1), **4(2)(b)**
- F14** Words in reg. 1(2) inserted (19.8.2005) by [Occupational Pension Schemes \(Miscellaneous Amendments\) Regulations 2005 \(S.I. 2005/2113\)](#), regs. 1(1), **8(1)(2)(d)**

**Marginal Citations**

- M3** [1995 c. 26](#). The definitions of “pension credit”, “pension credit member” and “pension credit rights” were inserted by section 84(1) of, and paragraphs 43, 61(1) and (3) of Schedule 12 to, the [Welfare Reform and Pensions Act 1999 \(c. 30\)](#).
- M4** Section 75 is amended by section 271 of the [Pensions Act 2004 \(c. 35\)](#).

**Provision of actuarial valuation to determine scheme underfunding**

2.—<sup>F15</sup>(1) The trustees or managers of an eligible scheme shall provide the Board or the Regulator on the Board’s behalf with its first section 179 valuation—

- (a) in the case of an eligible scheme which is a registrable scheme prior to 6th April 2007—
  - (i) within 15 months of the relevant time of that valuation; or
  - (ii) by no later than 31st March 2008,
 whichever is the earlier;
- (b) in the case of an eligible scheme which becomes a registrable scheme on or after 6th April 2007, within 15 months of the effective date of the first actuarial valuation obtained by them under section 224 of the Act (actuarial valuations and reports).]

<sup>F16</sup>(2) .....

<sup>F17</sup>(3) .....

(4) The relevant time of any subsequent section 179 valuation must not exceed a period of three years beginning immediately after the relevant time of the previous valuation provided to the Board or the Regulator on the Board's behalf.

(5) Any subsequent section 179 valuation shall be provided to the Board or the Regulator on the Board's behalf within [<sup>F18</sup>15 months] of the relevant time of that valuation.

- F15** Reg. 2(1) substituted (6.4.2007) by [The Pension Protection Fund \(Miscellaneous Amendments\) Regulations 2007 \(S.I. 2007/782\)](#), regs. 1(1), **4(3)(a)**
- F16** Reg. 2(2) omitted (6.4.2007) by virtue of [The Pension Protection Fund \(Miscellaneous Amendments\) Regulations 2007 \(S.I. 2007/782\)](#), regs. 1(1), **4(3)(b)**
- F17** Reg. 2(3) omitted (6.4.2007) by virtue of [The Pension Protection Fund \(Miscellaneous Amendments\) Regulations 2007 \(S.I. 2007/782\)](#), regs. 1(1), **4(3)(b)**
- F18** Words in reg. 2(5) substituted (6.4.2007) by [The Pension Protection Fund \(Miscellaneous Amendments\) Regulations 2007 \(S.I. 2007/782\)](#), regs. 1(1), **4(3)(c)**

*Status: Point in time view as at 30/04/2013.*

*Changes to legislation: There are currently no known outstanding effects for the The Pension Protection Fund (Valuation) Regulations 2005. (See end of Document for details)*

## <sup>F19</sup>Section 143 determinations

**2A.**—(1) This regulation applies where the Board is making a section 143 determination in respect of an eligible scheme.

- (2) The Board must determine the value of the assets and protected liabilities of that scheme—
- (a) by using the information contained in the most recent section 179 valuation or an appropriate alternative actuarial valuation;
  - (b) by updating that information in accordance with the statement issued by the Board under section 143(5C) of the Act; and
  - (c) in accordance with regulations 3(a) and (c), 4, 6(1)(a) and (2), and 7(1) to (4)(c).
- (3) In this regulation—

“an appropriate alternative actuarial valuation” means a written valuation of the scheme’s assets and liabilities prepared and signed by the actuary; and

“the actuary” means—

- (a) the actuary appointed under section 47(1)(b) of the Pensions Act 1995 (professional advisers) in relation to the scheme, or
- (b) a person who is a Fellow of the Institute and Faculty of Actuaries.]

**F19** Reg. 2A inserted (24.1.2013) by [The Pension Protection Fund \(Miscellaneous Amendments\) \(No. 2\) Regulations 2012 \(S.I. 2012/3083\)](#), regs. 1(2)(b), **5(3)** (with reg. 9(1)(e)(2), 10)

## Excluded assets

**3.** There shall be excluded from the value of the eligible scheme's assets—

- (a) in the case of a section 143 <sup>F20</sup>determination or section 143] valuation, any amounts treated as a debt due to the trustees or managers which are unlikely to be recouped without disproportionate cost or unlikely to be recovered within a reasonable time; and
- (b) in the case of a section 179 valuation—
  - (i) any amounts treated as a debt due to the trustees or managers under section 75 of the Pensions Act 1995 (deficiencies in the assets);
  - (ii) any amounts treated as debt under section 228(3) of the Act (failure to make payments);
  - (iii) any resources invested (or treated as invested) in contravention of section 40 of the Pensions Act 1995 (restriction on employer-related investments); and
  - (iv) any amounts treated as a debt due to the trustees or managers which are unlikely to be recouped without disproportionate cost or unlikely to be recovered within a reasonable time.
- <sup>F21</sup>(c) in the case of either a section 143 <sup>F22</sup>determination or section 143] or section 179 valuation, an amount in respect of the value of any pre-6th April 1997 contract of insurance if—
  - (i) the trustees or managers have taken all reasonable steps to obtain information concerning that contract of insurance (whether by searching the records of the scheme or otherwise); and
  - (ii) the information that they provide concerning that contract of insurance is insufficient, in the opinion of the appropriate person, to conduct a valuation.]

- F20** Words in [reg. 3\(a\)](#) inserted (24.1.2013) by [The Pension Protection Fund \(Miscellaneous Amendments\) \(No. 2\) Regulations 2012 \(S.I. 2012/3083\)](#), [regs. 1\(2\)\(b\)](#), **5(4)** (with [reg. 9\(1\)\(e\)\(2\)](#), 10)
- F21** [Reg. 3\(c\)](#) added (6.4.2007) by [The Pension Protection Fund \(Miscellaneous Amendments\) Regulations 2007 \(S.I. 2007/782\)](#), [regs. 1\(1\)](#), **4(4)**
- F22** Words in [reg. 3\(c\)](#) inserted (24.1.2013) by [The Pension Protection Fund \(Miscellaneous Amendments\) \(No. 2\) Regulations 2012 \(S.I. 2012/3083\)](#), [regs. 1\(2\)\(b\)](#), **5(4)** (with [reg. 9\(1\)\(e\)\(2\)](#), 10)

### Contribution notices, financial support directions and restoration orders

4. Subject to regulation 7(3) and (4), the prescribed requirement for any amount due under a contribution notice, financial support direction or restoration order to be regarded as an asset of the scheme is that the notice, direction or order was issued by the Regulator prior to the date that [<sup>F23</sup>the determination is made or] the valuation is approved.

- F23** Words in [reg. 4](#) inserted (24.1.2013) by [The Pension Protection Fund \(Miscellaneous Amendments\) \(No. 2\) Regulations 2012 \(S.I. 2012/3083\)](#), [regs. 1\(2\)\(b\)](#), **5(5)** (with [reg. 9\(1\)\(e\)\(2\)](#), 10)

### Valuation of assets

5. Subject to regulations 3 and 7, in determining the value of the assets of a scheme for the purposes of obtaining a section 143 valuation or a section 179 valuation, the appropriate person shall adopt the value given of the assets of the scheme stated in the relevant accounts<sup>F24</sup>... and that value shall be taken to be the value of those assets at the relevant time.

- F24** Words in [reg. 5](#) omitted (1.4.2006) by virtue of [The Pension Protection Fund \(General and Miscellaneous Amendments\) Regulations 2006 \(S.I. 2006/580\)](#), [regs. 1\(1\)\(a\)](#), **23**

### Valuation of protected liabilities

6.—<sup>F25</sup>(1) Subject to regulation 7, in the case of protected liabilities<sup>M5</sup> the value of a protected liability shall be—

- (a) for a section 143 [<sup>F26</sup>determination or section 143] valuation, the estimated cost of securing scheme benefits calculated in accordance with [<sup>F27</sup>Schedule 7 to the Act] (pension compensation provisions) to the member by means of an annuity purchased at the [<sup>F28</sup>best value rate available in the market as estimated by the Board] at the relevant time;
- (b) for a section 179 valuation, the estimated cost of securing scheme benefits in accordance with any guidance issued by the Board in accordance with section 179(4) of the Act, for the member by means of an annuity purchased at the [<sup>F29</sup>best value rate available in the market as estimated by the Board] at the relevant time.

<sup>F30</sup>(2) Where regulation 3(c) applies, the amount representing the value of a protected liability in respect of the benefits secured by a pre-6th April 1997 contract of insurance shall be excluded from the valuation of the eligible scheme's protected liabilities.]

- F25** [Reg. 6\(1\): reg. 6](#) renumbered as [reg. 6\(1\)](#) (6.4.2007) by [The Pension Protection Fund \(Miscellaneous Amendments\) Regulations 2007 \(S.I. 2007/782\)](#), [regs. 1\(1\)](#), **4(5)(a)**
- F26** Words in [reg. 6\(1\)\(a\)](#) inserted (24.1.2013) by [The Pension Protection Fund \(Miscellaneous Amendments\) \(No. 2\) Regulations 2012 \(S.I. 2012/3083\)](#), [regs. 1\(2\)\(b\)](#), **5(4)** (with [reg. 9\(1\)\(e\)\(2\)](#), 10)

*Status: Point in time view as at 30/04/2013.*

*Changes to legislation: There are currently no known outstanding effects for the The Pension Protection Fund (Valuation) Regulations 2005. (See end of Document for details)*

- F27** Words in reg. 6(a) substituted (1.4.2005) by [The Occupational Pension Schemes and Pension Protection Fund \(Amendment\) Regulations 2005 \(S.I. 2005/993\)](#), regs. 1(1), **8(a)**
- F28** Words in reg. 6(1)(a) substituted (30.4.2013) by [The Pension Protection Fund, Occupational and Personal Pension Schemes \(Miscellaneous Amendments\) Regulations 2013 \(S.I. 2013/627\)](#), regs. 1(1), **4(3)**
- F29** Words in reg. 6(1)(b) substituted (30.4.2013) by [The Pension Protection Fund, Occupational and Personal Pension Schemes \(Miscellaneous Amendments\) Regulations 2013 \(S.I. 2013/627\)](#), regs. 1(1), **4(3)**
- F30** Reg. 6(2) added (6.4.2007) by [The Pension Protection Fund \(Miscellaneous Amendments\) Regulations 2007 \(S.I. 2007/782\)](#), regs. 1(1), **4(5)(b)**

#### Marginal Citations

- M5** The term “protected liabilities” is defined in section 131(1) (protected liabilities) of the Pensions Act 2004;

### Alternative valuation of assets and protected liabilities in specific cases

7.—(1) For the purposes of a section 143 [<sup>F31</sup>determination or a section 143] or section 179 valuation, where arrangements are being made by the eligible scheme for the transfer to or from it, of accrued rights and any pension credit rights, until such time as the trustees or managers of the scheme to which the transfer is being made (“the receiving scheme”) have received assets of the full amount agreed by them as consideration for the transfer, it shall be assumed—

- (a) that the rights have not been transferred; and
- (b) that any assets transferred in respect of the transfer of those rights are assets of the scheme making the transfer and not of the receiving scheme.

(2) For the purposes of a section 143 [<sup>F31</sup>determination or a section 143] or section 179 valuation, in the case of a contract of insurance, the value shall be—

- (a) the value of the liability secured where the contract of insurance falls within the definition of a relevant contract of insurance in section 161(8) of the Act (effect of Board assuming responsibility for a scheme); or where this is not the case either—
- (b) the surrender value of the contract of insurance; or
- (c) where it appears to the appropriate person that the surrender value of the contract of insurance does not accurately reflect the actual value at the relevant time; then he shall adopt such a value as appears to him to be appropriate.

(3) In the case of an asset to which regulation 4 applies, the appropriate person shall adopt as the value of the asset, the amount due to the scheme given in the notice, direction or order.

(4) For the purposes of <sup>F32</sup>...—

- (a) [<sup>F33</sup>a section 143 determination or a section 143 valuation,] where the appropriate person, in accordance with guidance issued by the Board in accordance with [<sup>F34</sup>the statement issued by the Board under section 143(5C) of the Act or] section 143(6) of the Act, holds the opinion that any section 75 debt falling due to the eligible scheme will be recouped in the future then he shall treat the proportion of the section 75 debt that he believes will be recovered as an asset of the scheme;
- (b) [<sup>F33</sup>a section 143 determination or a section 143 valuation,] where any section 75 debt is recouped between the relevant time and the date [<sup>F35</sup>the determination is made under section 143(2)(a) of the Act or the date] the valuation is approved under section 144(2) of the Act (approval of valuation), then the amount so recouped—
  - (i) shall be treated as an asset of the scheme; and



- (ii) the section 143 [<sup>F36</sup>determination or section 143] valuation shall be adjusted accordingly;
- (c) [<sup>F33</sup>a section 143 determination or a section 143 valuation,] where an amount is due under a contribution notice, a financial support direction or a restoration order, and
  - (i) [<sup>F37</sup>either none of the amount due or only] a proportion of the amount due has been recouped; and
  - (ii) the appropriate person, in accordance with [<sup>F38</sup>a statement issued by the Board under section 143(5C) of the Act or] any guidance issued by the Board in accordance with section 143(6) or section 179(4) of the Act as appropriate, holds the opinion that [<sup>F39</sup>some or all of the] payments due in relation to the notice or direction will [<sup>F40</sup>not] be recouped by the scheme; then

the appropriate person shall adjust the value of the asset contained in the notice or direction to the value recouped by the trustees or managers of the eligible scheme during the pre-approval period.

- (d) [<sup>F41</sup>a section 143 valuation,] if the appropriate person—
  - (i) has been given notice; or
  - (ii) holds the opinion;

that the value of any asset set out in the relevant accounts, that is not excluded from the actuarial valuation, is substantially different at the relevant time from that set out in the relevant accounts, then he shall adjust the value of the asset to the market value of the asset at the relevant time; or

- (e) [<sup>F41</sup>a section 143 valuation,] where the appropriate person—
  - (i) has been given notice; or
  - (ii) holds the opinion

in accordance with any Board guidance issued in accordance with section 143(6) of the Act, that there exists an asset of the scheme which is not listed in the relevant accounts, and which is not excluded from the actuarial valuation, then he shall adopt such a value for the asset as he considers is appropriate.

(5) The appropriate person shall not make an adjustment to the value of an interest in real property unless the adjustment reflects a more recent valuation given by a chartered surveyor in accordance with any relevant practice statements and guidance notes issued by the Royal Institution of Chartered Surveyors<sup>M6</sup> current on the date that the valuation is signed.

**F31** Words in reg. 7(1)(2) inserted (24.1.2013) by [The Pension Protection Fund \(Miscellaneous Amendments\) \(No. 2\) Regulations 2012](#) (S.I. 2012/3083), regs. 1(2)(b), **5(6)(a)** (with reg. 9(1)(e)(2), 10)

**F32** Words in reg. 7(4) omitted (24.1.2013) by virtue of [The Pension Protection Fund \(Miscellaneous Amendments\) \(No. 2\) Regulations 2012](#) (S.I. 2012/3083), regs. 1(2)(b), **5(6)(b)** (with reg. 9(1)(e)(2), 10)

**F33** Words in reg. 7(4)(a)(b)(c) inserted (24.1.2013) by [The Pension Protection Fund \(Miscellaneous Amendments\) \(No. 2\) Regulations 2012](#) (S.I. 2012/3083), regs. 1(2)(b), **5(6)(c)** (with reg. 9(1)(e)(2), 10)

**F34** Words in reg. 7(4)(a) inserted (24.1.2013) by [The Pension Protection Fund \(Miscellaneous Amendments\) \(No. 2\) Regulations 2012](#) (S.I. 2012/3083), regs. 1(2)(b), **5(6)(d)** (with reg. 9(1)(e)(2), 10)

*Status: Point in time view as at 30/04/2013.*

*Changes to legislation: There are currently no known outstanding effects for the The Pension Protection Fund (Valuation) Regulations 2005. (See end of Document for details)*

- F35** Words in reg. 7(4)(b) inserted (24.1.2013) by [The Pension Protection Fund \(Miscellaneous Amendments\) \(No. 2\) Regulations 2012 \(S.I. 2012/3083\)](#), regs. 1(2)(b), **5(6)(e)(i)** (with reg. 9(1)(e)(2), 10)
- F36** Words in reg. 7(4)(b)(ii) inserted (24.1.2013) by [The Pension Protection Fund \(Miscellaneous Amendments\) \(No. 2\) Regulations 2012 \(S.I. 2012/3083\)](#), regs. 1(2)(b), **5(6)(e)(ii)** (with reg. 9(1)(e)(2), 10)
- F37** Words in reg. 7(4)(c)(i) inserted (30.4.2013) by [The Pension Protection Fund, Occupational and Personal Pension Schemes \(Miscellaneous Amendments\) Regulations 2013 \(S.I. 2013/627\)](#), regs. 1(1), **4(4)(a)**
- F38** Words in reg. 7(4)(c)(ii) inserted (24.1.2013) by [The Pension Protection Fund \(Miscellaneous Amendments\) \(No. 2\) Regulations 2012 \(S.I. 2012/3083\)](#), regs. 1(2)(b), **5(6)(f)** (with reg. 9(1)(e)(2), 10)
- F39** Words in reg. 7(4)(c)(ii) substituted (30.4.2013) by [The Pension Protection Fund, Occupational and Personal Pension Schemes \(Miscellaneous Amendments\) Regulations 2013 \(S.I. 2013/627\)](#), regs. 1(1), **4(4)(b)(i)**
- F40** Word in reg. 7(4)(c)(ii) inserted (30.4.2013) by [The Pension Protection Fund, Occupational and Personal Pension Schemes \(Miscellaneous Amendments\) Regulations 2013 \(S.I. 2013/627\)](#), regs. 1(1), **4(4)(b)(ii)**
- F41** Words in reg. 7(4)(d)(e) inserted (24.1.2013) by [The Pension Protection Fund \(Miscellaneous Amendments\) \(No. 2\) Regulations 2012 \(S.I. 2012/3083\)](#), regs. 1(2)(b), **5(6)(g)** (with reg. 9(1)(e)(2), 10)

#### Marginal Citations

- M6** The Royal Institution of Chartered Surveyors can be contacted at- RICS Contact Centre, Surveyor Court, Westwood Way, Coventry, CV4 8JE.

#### [<sup>F42</sup>Application of these regulations to applications for reconsideration and by closed schemes

**7A.**—(1) Regulations 2A, 3(a) and (c), 4, 6(1)(a) and (2), and 7(1) to (4)(c) apply in relation to a section 152 determination and a section 158 determination as they apply in relation to a section 143 determination.

(2) In the application of regulation 2A to section 152 determinations and section 158 determinations, the reference in paragraph (2)(a) to the most recent section 179 valuation is to be read as a reference to the most recent section 143 or section 179 valuation.

[<sup>F43</sup>(3) Regulations 3 to 7 apply in relation to a section 152(9) valuation, a section 152(10A) valuation, and a section 158 valuation as they apply in relation to a section 143 valuation.]

(4) In the application of regulations 5 and 7 [<sup>F44</sup>to a section 152(9) valuation, section 152(10A) valuation or section 158 valuation]—

- (a) the references to “relevant accounts” are to be read as references to “audited scheme accounts as defined in section 151(8) of the Act”; and
- (b) the references to “appropriate person” are to be read as references to “person who is a Fellow of the Institute and Faculty of Actuaries”.]

- F42** Reg. 7A inserted (24.1.2013) by [The Pension Protection Fund \(Miscellaneous Amendments\) \(No. 2\) Regulations 2012 \(S.I. 2012/3083\)](#), regs. 1(2)(b), **5(7)** (with reg. 9(1)(e)(2), 10)
- F43** Reg. 7A(3) substituted (30.4.2013) by [The Pension Protection Fund, Occupational and Personal Pension Schemes \(Miscellaneous Amendments\) Regulations 2013 \(S.I. 2013/627\)](#), regs. 1(1), **4(5)(a)**

**F44** Words in reg. 7A(4) substituted (30.4.2013) by The Pension Protection Fund, Occupational and Personal Pension Schemes (Miscellaneous Amendments) Regulations 2013 (S.I. 2013/627), regs. 1(1), 4(5)(b)

### Application of these regulations to multi-employer schemes

8. In these regulations, in the case of a scheme which is a multi-employer scheme for the purposes of the Pension Protection Fund (Multi-employer Schemes) (Modification) Regulations 2005, where these regulations apply to a section or a segregated part of a scheme, which is for the purposes of Part 2 of the Act, an eligible scheme, for “eligible scheme” and “scheme” substitute “ section or segregated part of a scheme ”.

### Form and content of section 143 valuation and notice

9.—(1) A section 143 valuation shall be in writing, and shall contain the following information—

- (a) a statement of the assets and protected liabilities of the eligible scheme calculated in accordance with these Regulations and guidance issued by the Board in accordance with [F45section 143(6)] of the Act;
- (b) a statement that the valuation was prepared in accordance with these Regulations and any guidance issued by the Board in accordance with section 143(6);
- (c) a statement that the valuation does not take effect until the valuation has become binding;
- (d) a statement that the person who prepared the valuation is an appropriate person;
- (e) the effective date and the date of issue of the valuation;
- (f) the name, address and pension scheme registration number of the scheme;
- (g) the name and address of the appropriate person who prepared and signed the section 143 valuation;
- (h) the names and contact details of the trustees or managers of the eligible scheme.

(2) Where a section 143 valuation becomes binding, the notice which the Board must issue under section 145(4) shall be in writing and shall contain the following information—

- (a) the name or type of notice issued;
- (b) the date on which the notice is issued;
- (c) the name, address and pension scheme registration number of the scheme in respect of which the notice is issued;
- (d) a statement that the valuation under section 143(2) has become binding;
- (e) the date on which the approval of valuation notice was issued.
- (f) the name of the employer in relation to the scheme in respect of which the notice is issued;
- (g) whether the notice issued by the Board contains any restricted information and, if so, the nature of the restriction.

**F45** Words in reg. 9(1)(a) substituted (1.4.2005) by The Occupational Pension Schemes and Pension Protection Fund (Amendment) Regulations 2005 (S.I. 2005/993), regs. 1(1), 8(b)

### [F46]Form and content of section 143A notice of determination

9A. Where a section 143 determination becomes binding, the notice which the Board must issue under section 143A(4) shall be in writing and shall contain the following information—

**Status:** Point in time view as at 30/04/2013.

**Changes to legislation:** There are currently no known outstanding effects for the The Pension Protection Fund (Valuation) Regulations 2005. (See end of Document for details)

- (a) the name or type of notice issued;
- (b) the date on which the notice is issued;
- (c) the name, address and pension scheme registration number of the scheme in respect of which the notice is issued;
- (d) a statement that the section 143 determination has become binding;
- (e) the name of the employer in relation to the scheme in respect of which the notice is issued; and
- (f) whether the notice issued by the Board contains any restricted information and, if so, the nature of the restriction.]

**F46** Reg. 9A inserted (24.1.2013) by [The Pension Protection Fund \(Miscellaneous Amendments\) \(No. 2\) Regulations 2012 \(S.I. 2012/3083\)](#), regs. 1(2)(b), **5(8)** (with reg. 9(1)(e)(2), 10)

#### **Prescribed qualifications for the purposes of section 143 and section 179 of the Act**

**10.** For the purpose of the definition of actuarial valuation contained in section 143(11) and the purpose of the definition of actuary contained in section 179(2) of the Act, a person with [<sup>F47</sup>the prescribed qualifications is a Fellow of the Institute and Faculty of Actuaries.]

**F47** Words in reg. 10 substituted (6.4.2012) by [The Pensions \(Institute and Faculty of Actuaries and Consultation by Employers Amendment\) Regulations 2012 \(S.I. 2012/692\)](#), regs. 1(2), **11**

Signed by authority of the Secretary of State for Work and Pensions.

*Malcolm Wicks*  
Minister of State  
Department for Work and Pensions

[<sup>F48</sup>SCHEDULE

Regulation 1(2)

Contents of Accounts Audited by the Auditor of the Scheme

**F48** Sch. added (6.4.2007) by [The Pension Protection Fund \(Miscellaneous Amendments\) Regulations 2007 \(S.I. 2007/782\)](#), regs. 1(1), **4(6)**

1. An account of the financial additions to, withdrawals from and changes to the value of the fund during the accounting period.

2.—(1) A statement, as at the end of the accounting period, of the assets at market value, or trustees' or managers' estimate thereof where the market value is not readily ascertainable, and liabilities of the scheme, other than liabilities to pay pensions and benefits after the end of the accounting period—

- (a) giving, in the case of any assets which are stated as an estimate of their market value, the reason why the valuation is an estimate;
- (b) showing the distribution of the investments and other assets of the scheme between each of the following categories (where none of the investments falls within a particular category, that fact is not required to be stated), namely—
  - (i) insurance policies;
  - (ii) public sector fixed interest investments and separately showing quoted securities and unquoted securities;
  - (iii) other fixed interest investments and separately showing quoted securities and unquoted securities;
  - (iv) index-linked securities and separately showing quoted securities and unquoted securities;
  - (v) equities (including convertible shares) and separately showing quoted equities and unquoted equities;
  - (vi) property (which in this paragraph means any right or interest in freehold or leasehold land or buildings);
  - (vii) unit trusts invested in property;
  - (viii) other unit trusts;
  - (ix) managed funds (other than unit trusts) invested in property;
  - (x) other managed funds (not being unit trusts);
  - (xi) loans (whether or not secured by mortgage);
  - (xii) cash deposits and cash in hand;
  - (xiii) investments and other assets not included in heads (i) to (xii) above; and
- (c) showing separately, in the case of investments in each category, investments in the United Kingdom and investments outside the United Kingdom, and in the case of cash investments mentioned in heads (vii) to (x) of sub-paragraph (b) investments where the company operating the unit trust or managed fund is, and where it is not, a company registered in the United Kingdom.

(2) Where the assets include insurance policies which are specifically allocated to the provision of benefits for, and which provide all the benefits payable under the scheme to, particular members or other persons in respect of particular members or both, those policies must be included in the statement and there must be a note of the existence of such policies but that entry need not include their market value or an estimate.

**Status:** Point in time view as at 30/04/2013.

**Changes to legislation:** There are currently no known outstanding effects for the The Pension Protection Fund (Valuation) Regulations 2005. (See end of Document for details)

(3) Where the assets—

- (a) are invested only for the purposes of securing additional money purchase benefits derived from voluntary contributions; and
- (b) are specifically allocated to the provision of additional benefits for particular members or other persons in respect of particular members (or both),

a note that paragraphs (a) and (b) apply must be included in the statement, but that entry need not include the market value or an estimate of value of those assets.

**3.** Where any assets or liabilities are denominated in currencies other than sterling, a translation of those assets into sterling and an explanation of the basis on which they have been translated.

**4.** Particulars of any investment (other than in UK Government securities) in which more than 5 per cent. of the total value of the net assets of the scheme is invested, and if any such investment is an insurance policy, a statement of its main characteristics.

**5.** Where the scheme has employer-related investments, within the meaning of section 40(2) of the Pensions Act 1995 (restriction on employer-related investments), a statement—

- (a) as to the percentage of the scheme’s resources invested in such investments at the end of the accounting period; and
- (b) if that percentage exceeds 5 per cent., as the percentage of the scheme’s resources which are investments to which regulation 13 of the Occupational Pension Schemes (Investment) Regulations 2005 (restrictions on employer-related investments) applies.

**6.** In respect of every other amount shown in the accounts other than the amounts referred to in paragraph 7, a statement of the corresponding amount for the scheme year previous to the accounting period, except in a case where regulation 2 of the Occupational Pension Schemes (Requirement to obtain Audited Accounts and a Statement from the Auditor) Regulations 1996 (requirement for trustees or managers to obtain documents) is complied with by the trustees or managers of a scheme for the first time.

**7.** The total amount of the purchases and the total amount of the sales of investments during the accounting period.

**8.** A statement whether the accounts have been prepared in accordance with the Statement of Recommended Practice, the guidelines (“Financial Reports of Pension Schemes”) published by the Pensions Research Accountants Group or another organisation approved for this purpose by [<sup>F49</sup>the Financial Reporting Council Limited], current at the end of the accounting period and, if not, an indication of where there are any material departures from those guidelines.]

**F49** Words in Sch. para. 8 substituted (2.7.2012) by [The Statutory Auditors \(Amendment of Companies Act 2006 and Delegation of Functions etc\) Order 2012 \(S.I. 2012/1741\)](#), art. 1(2), [Sch. para. 6](#)

---

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations provide for the assessment of the assets and liabilities of eligible schemes in accordance with sections 143 and 179 of the Pensions Act 2004 (c. 35) (“the Act”).

The Board of the Pension Protection Fund (“the Board” is established by section 107 of the Act to provide compensation for members of certain occupational pension schemes in the event of the insolvency of the scheme's sponsoring employer and where the pension scheme is underfunded at a certain level.

Regulation 2 provides that eligible schemes must provide an initial section 179 actuarial valuation of the scheme's assets and liabilities by a prescribed date. The Regulation further provides that in the case of section 179 valuations, the trustees or managers of eligible schemes must provide actuarial valuations to the Board, or to the Pensions Regulator (established under section 1 of the Act) at least every three years after the initial actuarial valuation.

Regulation 3 provides for assets that shall be excluded from the actuarial valuations.

Regulation 4 provides for how the value of assets of eligible schemes are to be determined for the purposes of an actuarial valuation under sections 143 and 179 of the Act.

Regulation 5 provides for the circumstances where a payment due to the eligible scheme under a contribution notice, a financial support direction or a restoration order shall be considered to be an asset of the eligible scheme. The Regulation also further provides that where such a payment is considered to be an asset the actuarial valuation shall be adjusted accordingly.

Regulation 6 provides for the valuation of protected liabilities of the eligible scheme.

Regulation 7 provides for valuation of assets and protected liabilities of the scheme in specific cases where the valuation contained regulations 4, 5 and 6 would not give an accurate picture of the assets and protected liabilities of the eligible scheme.

Regulation 8 provides for the application of these Regulations to multi employer schemes.

Regulation 9 prescribes the form and content of the notice sent by the Board to the relevant employer when a valuation becomes binding under section 145 of the Act and also the form and content of the valuation sent by the eligible scheme to the Board.

Regulation 10 prescribes the qualifications required of a person conducting an actuarial valuation under section 143 or section 179 of the Act.

As these Regulations are made before the expiry of the period of six months beginning with the coming into force of the provisions of the Pensions Act 2004, but virtue of which they are made, the requirement for the Secretary of State to consult such persons as he considers appropriate does not apply.

A full regulatory impact assessment has not been produced for this regulation as it has negligible impact on the costs of business.

**Status:**

Point in time view as at 30/04/2013.

**Changes to legislation:**

There are currently no known outstanding effects for the The Pension Protection Fund (Valuation) Regulations 2005.